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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/754,958	01/09/2004	Troy L. Robins	3036	8847

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EXAMINER

MACARTHUR, VICTOR L

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/754,958	Applicant(s) ROBINS, TROY L.	
	Examiner Victor MacArthur	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) 16-18 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 is/are allowed.
- 6) ☒ Claim(s) 6-10, 13-15 and 19 is/are rejected.
- 7) ☒ Claim(s) 11 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Election/Restrictions***

Regarding group I, it is noted that the applicant has stated, "applicant does not believe that the subject matters shown in figs. 6-12 are patentably distinct". This is taken by the examiner to be a clear admission on record that the species of group I are obvious variants of each other. As such, under 35 U.S.C. 103(a), the examiner may use the applicants admission to reject limitations shown in one or more figures with prior art pertaining to other figures within the same group of species.

Regarding group II, applicant's election without traverse of Species B (fig. 14) in the reply filed on 10/11/2005 is acknowledged.

Claims 16-18 and 20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/11/2005. Contrary to the applicant's assertion, claims 4 and 5 read on the elected species. Further contrary to the applicant's assertion, claim 20 does not read on the elected species since the limitation "to displace" (line 2 of claim 20) is drawn to species A and C rather than the elected species B. Lastly note that claims 6-9 have not been withdrawn since they depend from claim 1, which has been allowed

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 6-9 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. In the specification and as shown in the drawings the applicant's invention comprises 3 separate embodiments for the latching mechanism (i.e. fig.13, fig.14 and fig.15). However, the language of claims 4-9 requires aspects not present in any single embodiment but rather appear to be a new undescribed combination of embodiments. For instance:

- Claims 6 and 7 require the "sloped surface" (line 2 of claim 6) of figure 13 and the "pivot arm" (line 8 of claim 1) of figure 14.
- Claims 8 and 9 require the plate (line 2 of claim 8) of figure 15 and the "pivot arm (line 8 of claim 1) of figure 14.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 19 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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- The phrase “a lever arm having first and seconds” (line 2 of claim 19) is unclear.

Furthermore, the claim is replete with typographical errors and terms that lack proper antecedent basis. The claim is unclear to a degree that renders it incomprehensible.

Claim Objections

Claims 10, 13 and 19 are objected to because of the following informalities:

- The preambles of claims 10 and 13 functionally recite the “two nestable shanks” and “at least one aperture” (lines 1-2 of claim 10) such that they do not constitute positively recited structure but rather elements only **intended to be used** with the latching mechanism (emphasis added). However, the body of claim 1 (e.g., lines 13-18) positively recites the above-mentioned structure. The applicant should amend the claims to recite the two shanks consistently positively or consistently as a mere intended use. For purposes of examination, the examiner has considered the claims without combination.
- The limitation “without” recited throughout claim 13 should be replaced with -- outside--- to improve claim clarity.
- The limitation “latching means” (line 1 of claim 19) should be replaced with “latching mechanism” in order to maintain consistent claim terminology.

Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Lin (U.S. Patent 5,975,592).

Claim 10. Lin discloses (figs.3 and 4) a latching mechanism said latching mechanism comprising: a housing (3); a locking pin (7) having a free end (bottom end of 7) for extension outside said housing; first means for biasing (9') said free end of said locking pin towards a first normal locking position outside said housing; second means for biasing (5 and 9'') said free end of said locking pin towards a second release position within said housing; said first bias means selectably operable by a user in a manner to remove said bias of said first bias means on said locking pin, whereby said second bias means urges said locking pin free end towards said second position within said housing. Furthermore the Lin latching mechanism is fully capable of performing the intended use limitation of being for coupling two nestable shanks in a selected extension therebetween, each shank having at least one aperture along a longitudinal extent thereof, wherein a placement of said latching mechanism along the first shank with the second shank nested therein joining the first and second shanks upon said movement of said locking pin to said first normal locking position and in extension through aligned apertures of the first and second shanks, a user operation of said first bias means moving said locking pin to said second release position and outside the aligned apertures for releasing said joined shanks.

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Claim 13. Lin discloses (figs.3 and 4) a latching mechanism said latching mechanism comprising: a housing (3); a locking pin (7) having a free end (bottom end of 7) for reciprocative extension between a release position within said housing and a locking position outside said housing; first means for biasing (9'' and 5) said free end of said locking pin towards said release position within said housing; second bias means for biasing (9') said free end of said locking pin towards said locking position outside said housing, said second bias means movable between first and second positions, said first position presenting a bias greater than said first bias means wherein said second bias means urges said free end of said locking pin towards said locking position outside said housing, said second position of said second bias means presenting a bias less than said first bias means wherein said first bias means urges said locking pin to said release position within said housing. The Lin latching mechanism is fully capable of performing the intended use limitation of being for coupling two nestable shanks in a selected extension therebetween, each shank having at least one aperture along a longitudinal extent thereof for alignment therebetween wherein said first position of said second bias means urging said locking pin through aligned apertures of the first shank and second nested shanks to join the first and second shanks, said second bias means second position allowing for displacement of the locking pin to a position without the aligned apertures to release the first and second shanks.

Claim 14. Lin discloses the latching mechanism as claimed in claim 13 wherein said first bias means comprises a first spring (9'') coupled to said locking pin, a movement of said spring towards a normal position (compressed position) urging said locking pin (via 5) to said release position.

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Claim 15. Lin discloses the latching mechanism as claimed in claim 14 wherein said second bias means comprises: means for moving (9') said first spring away from said normal position whereby to move said locking pin to said locking position outside said housing; and means (12) for maintaining said first spring in said position away from said normal position, thereby maintaining said locking pin at said locking position.

Allowable Subject Matter

Claims 1-5 are allowed. The following is an examiner's statement of reasons for allowance:

Claim 1. Jackson (U.S. Patent 5,931,065) discloses (fig.3) a latching mechanism for coupling two nestable shanks in a selected extension therebetween, each shank having at least one aperture along a longitudinal extent thereof, said latching mechanism comprising: a housing (12); an aperture (22) in said housing; a locking pin (62) for extension through said apertures, said pin having first (top end of 62) and second ends (bottom end of 62); a lever arm (52) for bearing against said first end of said locking pin; second means for biasing (56) said lever arm to a first position bearing against said first end of said locking pin to urge said second end of said locking pin in extension outside said housing, said lever arm presenting a first end (right end of 52) for user manipulation, a manipulation of said first end urging said lever arm away from said first position; said latching mechanism adapted for placement along the first shank with an aperture of the respective nested shanks aligned therebetween, wherein said latching mechanism joins the first and second shanks upon said movement of said locking pin second end in extension outside said housing and through the aligned apertures of the first and second shanks,

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the first and second nested shanks releasable upon movement of the locking pin second end towards said position within said housing and without the aligned shank apertures. The prior art does not disclose or suggest a pivot arm within said housing having first and second ends, said pivot arm first end being pivotable about an axis within said housing with said pivot arm second end attached to said locking pin; first means for biasing said pivot arm to urge said locking pin second end towards a position within said housing; wherein said first bias means is allowed to urge said locking pin second end within said housing.

Claims 2-5 depend from claim 1 and thus are similarly allowed.

Claims 11 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 11. Lin (U.S. Patent 5,975,592) discloses the latching mechanism as claimed in claim 10 wherein said first bias means comprises: a first spring; an arm (22) associated with said spring, said spring urging said arm in a manner to move said free end of said locking pin to said first normal locking position. The prior art does not disclose that the arm is urged against said locking pin. The examiner notes that modifying the Lin arm and pin to be of separate two-piece construction rather than of homogenous construction would meet this limitation. However, the prior art does not disclose or suggest any benefit from such a modification nor would the knowledge of one of ordinary skill in the art lead one to such a modification. Furthermore, it appears that such a modification of the prior art would change the principle of operation of the pin since retention of the pin within the assembly requires one-piece homogenous construction

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with the arm. Accordingly, the teachings of the references are not sufficient to render claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 249 (CCPA 1959).

Claim 12 depends from claim 11 and is thus similarly objected to.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Referring to latching mechanisms:

Johnson U.S. Patent 1,370,820

Morehouse U.S. Patent 1,753,441

Volpi U.S. Patent 4,303,266

McBride U.S. Patent 4,409,866

Colace U.S. Patent 4,905,548

O U.S. Patent 5,154,104

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Victor MacArthur whose telephone number is (571) 272-7085. The examiner can normally be reached on 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197.



VLM

October 31, 2005



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